

UNITED STATES DISTRICT COURT

U. S. DISTRICT COURT  
DISTRICT OF MAINE  
PORTLAND  
RECEIVED & FILED

for the  
District of Maine

SEP 19 2016

CHRISTA K. BERRY, CLERK  
BY  
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United States of America )

v. )

Naquan Eley, )  
Defendant )

Case No. 2:16-cr-00012-DBH

ORDER OF DETENTION PENDING TRIAL

Part I - Eligibility for Detention

Upon the

- Motion of the Government attorney pursuant to 18 U.S.C. § 3142(f)(1), or
- Motion of the Government or Court's own motion pursuant to 18 U.S.C. § 3142(f)(2),

the court held a re-opened detention hearing and found that detention is warranted. This order sets forth the court's findings of fact and conclusions of law, as required by 18 U.S.C. § 3142(i), in addition to any other findings made at the hearing.

Part II - Findings of Fact and Law as to Presumptions under § 3142(e)

- A. Rebuttable Presumption Arises Under 18 U.S.C. § 3142(e)(2) (previous violator):** There is a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of any other person and the community because the following conditions have been met:
  - (1) the defendant is charged with one of the following crimes described in 18 U.S.C. § 3142(f)(1):
    - (a) a crime of violence, a violation of 18 U.S.C. § 1591, or an offense listed in 18 U.S.C. § 2332b(g)(5)(B) for which a maximum term of imprisonment of 10 years or more is prescribed; or
    - (b) an offense for which the maximum sentence is life imprisonment or death; or
    - (c) an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the Controlled Substances Act (21 U.S.C. §§ 801-904), the Controlled Substances Import and Export Act (21 U.S.C. §§ 951-971), or Chapter 705 of Title 46, U.S.C. (46 U.S.C. §§ 70501-70508); or
    - (d) any felony if such person has been convicted of two or more offenses described in subparagraphs (a) through (c) of this paragraph, or two or more State or local offenses that would have been offenses described in subparagraphs (a) through (c) of this paragraph if a circumstance giving rise to federal jurisdiction had existed, or a combination of such offenses; or
    - (e) any felony that is not otherwise a crime of violence but involves:
      - (i) a minor victim; (ii) the possession of a firearm or destructive device (as defined in 18 U.S.C. § 921);
      - (iii) any other dangerous weapon; or (iv) a failure to register under 18 U.S.C. § 2250; and
  - (2) the defendant has previously been convicted of a Federal offense that is described in 18 U.S.C. § 3142(f)(1), or of a State or local offense that would have been such an offense if a circumstance giving rise to Federal jurisdiction had existed; and
  - (3) the offense described in paragraph (2) above for which the defendant has been convicted was committed while the defendant was on release pending trial for a Federal, State, or local offense; and
  - (4) a period of not more than five years has elapsed since the date of conviction, or the release of the defendant from imprisonment, for the offense described in paragraph (2) above, whichever is later.

- B. Rebuttable Presumption Arises Under 18 U.S.C. § 3142(e)(3) (narcotics, firearm, other offenses):** There is a rebuttable presumption that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community because there is probable cause to believe that the defendant committed one or more of the following offenses:
- (1) an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the Controlled Substances Act (21 U.S.C. §§ 801-904), the Controlled Substances Import and Export Act (21 U.S.C. §§ 951-971), or Chapter 705 of Title 46, U.S.C. (46 U.S.C. §§ 70501-70508);
  - (2) an offense under 18 U.S.C. §§ 924(c), 956(a), or 2332(b);
  - (3) an offense listed in 18 U.S.C. § 2332b(g)(5)(B) for which a maximum term of imprisonment of 10 years or more is prescribed;
  - (4) an offense under Chapter 77 of Title 18, U.S.C. (18 U.S.C. §§ 1581-1597) for which a maximum term of imprisonment of 20 years or more is prescribed; or
  - (5) an offense involving a minor victim under 18 U.S.C. §§ 1201, 1591, 2241, 2242, 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1), 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423, or 2425.

**C. Conclusions Regarding Applicability of Any Presumption Established Above**

- The defendant has not introduced any evidence, or the slight evidence necessary to rebut the presumption above.

**OR**

- The defendant has presented evidence sufficient to rebut the presumption, but after considering the presumption and the other factors discussed below, detention is warranted.

**Part III - Analysis and Statement of the Reasons for Detention**

After considering the factors set forth in 18 U.S.C. § 3142(g) and the information presented at the detention hearing, the court concludes that the defendant must be detained pending trial because the Government has proven:

- By clear and convincing evidence that no condition or combination of conditions of release will reasonably assure the safety of any other person and the community.
- By a preponderance of evidence that no condition or combination of conditions of release will reasonably assure the defendant's appearance as required.

In addition to any findings made on the record at the hearing, the reasons for detention include the following:

- Weight of evidence against the defendant is strong
- Subject to lengthy period of incarceration if convicted
- Prior criminal history
- Participation in criminal activity while on probation, parole, or supervision
- History of violence or use of weapons
- History of alcohol or substance abuse
- Lack of stable employment
- Lack of stable residence
- Lack of financially responsible sureties

- Lack of significant community or family ties to this district
- Significant family or other ties outside the United States
- Lack of legal status in the United States
- Subject to removal or deportation after serving any period of incarceration
- Prior failure to appear in court as ordered
- Prior attempt(s) to evade law enforcement
- Use of alias(es) or false documents

**OTHER REASONS OR FURTHER EXPLANATION:**

On September 19, 2016, upon the request of the defendant and with the agreement of the government, I reopened the detention hearing. These are my additional findings.

His regular and recurrent criminal history demonstrates the likelihood of recidivism.

I found the defendant's girlfriend and mother both to be credible witnesses who both love the defendant deeply. I found their lack of awareness of his travels to Maine and of his drug dealing to be deeply disturbing in considering whether their proposed release arrangements would prevent the defendant from continuing or resuming his criminal activity. I also found their lack of awareness of his substance abuse to be equally concerning for the same reasons. Given the fact that he apparently was living with his girlfriend while he was carrying on his criminal activity without her knowledge, I am deeply skeptical that she can prevent him from engaging in such behavior.

The offense with which the defendant is charged is very serious, carrying a mandatory minimum sentence of 5 years and as much as 40 years. 21 U.S.C. §§ 846, 841(a)(1) & (b)(1)(B). He has a history with weapons-related offenses.

The weight against the defendant is strong, including his fingerprints found at one of the drug stash houses on plastic baggies containing weapons.

He has no steady employment.

I therefore find by clear and convincing evidence that no condition or combination of conditions will reasonably assure the safety of other persons and the community.

In light of that finding, I conclude that it is unnecessary to determine whether he poses a risk of flight given the proposed conditions of release (residence, home confinement, sureties, travel funds, etc.).

**Part IV - Directions Regarding Detention**

The defendant is remanded to the custody of the Attorney General or his/her designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant must be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility must deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

Date: \_\_\_\_\_

9/19/16

  
United States District Judge